

Sixth Appellate District

San Jose, California

MONDAY, DECEMBER 17, 2001

(no minute approved orders)

TUESDAY, DECEMBER 18, 2001

H021504 PEOPLE v. ROSSMAN

The judgment is reversed. The matter is remanded for a new trial limited to counts 1 through 7. (not published)
(Elia, J.; We concur: Premo, Acting P.J., Mihara, J.)
Filed December 18, 2001

H021653 GOUSKOS, et al. v. APTOS VILLAGE GARAGE, et al.

The judgment is affirmed. (published)
(Premo, Acting P.J.; We concur: Elia, J., Mihara, J.)
Filed December 18, 2001

H021340 DKB HOMES v. CITY OF SAN JOSE

By the Court*:

Appellant's petition for rehearing is denied.
Filed: December 18, 2001
*Before Premo, Acting P.J., Elia, J., and Mihara, J.

H023063 DFCS v. JANE M.

The order is affirmed. (not published)
(Wunderlich, J.; We concur: Bamattre-Manoukian, Acting P.J., O'Farrell, J.*)
Filed December 18, 2001
*Judge of the Monterey Superior Court sitting under assignment by the Chairperson of the Judicial Council.

H021916 SANTA CRUZ COUNTY REDEVELOPMENT AGENCY v. GRAGG, et al.

The appeal is dismissed. (not published)
(Premo, Acting P.J.; We concur: Elia, J., Mihara, J.)
Filed December 18, 2001

Sixth Appellate District

San Jose, California

Tuesday, December 18, 2001 (continued)

H021970 AINOM v. SERRA RESIDENTIAL CENTER, INC.

The judgment is affirmed. (not published)
(Premo, Acting P.J.; We concur: Elia, J., Mihara, J.)
Filed December 18, 2001

H022799 CAMUFFO v. LECOMTE, as Trustee, etc., et al.

The court's order is affirmed. (not published)
(Premo, Acting P.J.; We concur: Elia, J., Mihara, J.)
Filed December 18, 2001

WEDNESDAY, DECEMBER 19, 2001

H020838 PEOPLE v. ROGGE

The judgment is affirmed. (not published)
(Elia, J.; We concur: Premo, Acting P.J., Mihara, J.)
Filed December 19, 2001

H023115 PEOPLE v. PLUMB

The judgment is affirmed. (not published)
(Premo, Acting P.J.; We concur Elia, J., Mihara, J.)
Filed December 19, 2001

H020953 LIN v. LEE

The judgment is affirmed. (not published)
(Premo, J.; We concur: Elia, J., Bamattre-Manoukian, Acting P.J.)
Filed December 19, 2001

H021683 PEOPLE v. ELIAS

The judgment is affirmed. (not published)
(Premo, Acting P.J.; We concur: Elia, J., Mihara, J.)
Filed December 19, 2001

Sixth Appellate District

San Jose, California

Wednesday, December 19, 2001 (continued)

H022106 PEOPLE v. INGMAR C., a Minor

The judgment is reversed. (not published)
(Premo, Acting P.J.; We concur: Elia, J., Mihara, J.)
Filed December 19, 2001

H021373 PEOPLE v. SHARNAK

The judgment is modified to reduce the section 1202.4, subdivision (b) restitution fine to \$200. As so modified, the judgment is affirmed. (not published)
(Elia, J.; We concur: Premo, Acting P.J., Mihara, J.)
Filed December 19, 2001

THURSDAY, DECEMBER 20, 2001

H021290 PEOPLE v. LAZAREVICH

The order setting aside the information is reversed as to the period of time between January 15, 1992 and June 7, 1995. (not published)
(O'Farrell, J.*; We concur: Bamattre-Manoukian, Acting P.J., Wunderlich, J.)
Filed December 20, 2001
*Judge of the Monterey Superior Court assigned by the Chief Justice pursuant to Article VI, Section 6 of the California Constitution.

H020929 PEOPLE v. SALAZAR

The judgment is affirmed. (not published)
(Premo, Acting P.J.; We concur: Elia, J., Mihara, J.)
Filed December 20, 2001

Sixth Appellate District

San Jose, California

FRIDAY, DECEMBER 21, 2001

H022492 MURPHY v. MURPHY

The order is modified to direct quasi-specific performance of the decedent's agreement and impose a constructive trust on the property in favor of Thomas D. Murphy and the heirs of Timothy Malley. The parties shall bear their own costs on appeal. (not published)

(Elia, J.; We concur: Premo, Acting P.J., Mihara, J.)

Filed December 21, 2001

H022169 PEOPLE v. DECK

The judgment is affirmed. (not published)

(Bamattre-Manoukian, Acting P.J.; I concur: Wunderlich, J.; Dissenting opinion by O'Farrell, J.*)

Filed December 21, 2001

*Judge of the Monterey Superior Court assigned by the Chief Justice pursuant to Article VI, Section 6 of the California Constitution.

H023085 DFCS v. D. W.

The order terminating parental rights is affirmed. (not published)

Bamattre-Manoukian, Acting P.J.; We concur: Wunderlich, J., O'Farrell, J.*)

Filed December 21, 2001

*Judge of the Monterey Superior Court assigned by the Chief Justice pursuant to Article VI, Section 6 of the California Constitution.

Sixth Appellate District

San Jose, California

Friday, December 21, 2001 (continued)

H020036 DE ANZA SANTA CRUZ MOBILE ESTATES HOMEOWNERS ASSOCIATION
v. DE ANZA SANTA CRUZ MOBILE ESTATES, et al.

The judgment awarding punitive damages is reversed and the post-judgment order awarding attorney's fees is reversed. Based on the established fact that De Anza/MHC violated Civil Code section 798.14 of the Mobilehome Residency Law, on remand the Association may seek statutory penalties in the court's discretion under Civil Code section 798.86 and may also seek attorney's fees and costs under section 798.85. The Association may also retry its tort claims and seek punitive damages based on tort liability. However, the Association may not recover both statutory penalties and punitive damages. The parties are to bear their own costs on appeal.

(published)

(Bamattre-Manoukian, Acting P.J.; We concur: Wunderlich, J., O'Farrell, J.*)

Filed December 21, 2001

*Judge of the Monterey Superior Court assigned by the Chief Justice pursuant to Article VI, Section 6 of the California Constitution.

H021621 PEOPLE v. ZICHWIC

The judgment is affirmed. (published)

(Bamattre-Manoukian, Acting P.J.; I concur: Wunderlich, J.; Concurring and dissenting opinion by O'Farrell, J.*)

Filed December 21, 2001

*Judge of the Monterey Superior Court assigned by the Chief Justice pursuant to Article VI, Section 6 of the California Constitution.

Sixth Appellate District

San Jose, California

Friday, December 21, 2001 (continued)

H021112 PEOPLE v. DURAN

The judgment is reversed and the case is remanded to the trial court. There is insufficient evidence to sustain the section 11379.8 enhancement on count 1. Unless the prosecutor elects to retry this allegation, the trial court shall resentence the defendant and shall decide whether to impose the previously stayed enhancement on count 2 (§ 11379.6, manufacturing methamphetamine). (published)

(Bamattre-Manoukian, Acting P.J.; We concur: Wunderlich, J., Mihara, J.)

Filed December 21, 2001

H020950 PEOPLE v. DANG

The judgment is affirmed. (not published)

(Wunderlich, J.; We concur: Bamattre-Manoukian, Acting P.J., O'Farrell, J.*)

Filed December 21, 2001

*Judge of the Monterey Superior Court assigned by the Chief Justice pursuant to Article VI, Section 6 of the California Constitution.

Sixth Appellate District

San Jose, California

Friday, December 21, 2001 (continued)

H022919 THE PEOPLE v. SUPERIOR COURT OF SANTA CRUZ COUNTY; CHEEK
H022885 THE PEOPLE v. SUPERIOR COURT OF SANTA CRUZ COUNTY; GRANT

In *People v. Superior Court (Cheek)*, H022919: Let a peremptory writ of mandate issue commanding the superior court to vacate its order denying the People's motion for order quashing notice of deposition, and to reconsider its ruling in accordance with those provisions of the Civil Discovery Act of 1986 (Code Civ. Proc., § 2016 et seq.) which authorize a trial court to exercise its discretion to manage civil discovery. The temporary stay order is vacated.

In *People v. Superior Court (Grant)*, H022885: Let a peremptory writ of mandate issue commanding the superior court to vacate its order denying the People's motion for order quashing notice of deposition, and to reconsider its ruling in accordance with those provisions of the Civil Discovery Act of 1986 (Code Civ. Proc., § 2016 et seq.) which authorize a trial court to exercise its discretion to manage civil discovery. The temporary stay order is vacated. (published)

(Bamattre-Manoukian, Acting P.J.; We concur: Wunderlich, J., O'Farrell, J.*)

Filed December 21, 2001

*Judge of the Monterey Superior Court assigned by the Chief Justice pursuant to Article VI, Section 6 of the California Constitution.

Sixth Appellate District

San Jose, California

Friday, December 21, 2001 (continued)

H022416 GUARDIAN NORTH BAY INC. v. SUPERIOR COURT; MYERS

H022417 GUARDIAN NORTH BAY INC. v. SUPERIOR COURT; SPENCER

H022418 GUARDIAN NORTH BAY INC. v. SUPERIOR COURT; CASE, et al.

In Guardian North Bay, Inc. v. Superior Court (Myers),
H0022416: The petition for writ of mandate, prohibition or other
appropriate relief is denied. The temporary stay order is
vacated. Costs are awarded to real party in interest.

In Guardian North Bay, Inc. v. Superior Court (Spencer),
H0022417: The petition for writ of mandate, prohibition or other
appropriate relief is denied. The temporary stay order is
vacated. Costs are awarded to real party in interest.

In Guardian North Bay, Inc. v. Superior Court (Case, et
al.), H0022418: The petition for writ of mandate, prohibition or
other appropriate relief is denied. The temporary stay order is
vacated. Costs are awarded to real party in interest.

(Published)

(Elia, J.; We concur: Premo, Acting P.J., Mihara, J.)

Filed December 21, 2001